

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JAMES M KELLEY,
Plaintiff,

v.

JPMORGAN CHASE BANK NATIONAL
ASSOCIATION,
Defendant.

Case No. [5:18-cv-04812-EJD](#)

**ORDER DISMISSING CASE
WITHOUT PREJUDICE**

Re: Dkt. No. 25

On August 8, 2018, Plaintiff James M. Kelley sued Defendants JPMorgan Chase Bank National Association (“Chase”) and the State of California in this Court in an attempt to enjoin an unlawful detainer action that Chase had brought against Kelley in the Santa Clara County Superior Court. Dkt. 1 ¶¶ 36, 43. The unlawful detainer action concerns a property in Saratoga, California. *Id.* ¶ 13. Kelley asked this Court to declare California’s unlawful detainer statute (Cal. Code Civ. P. § 1161a(b)) to be in violation of the U.S. Constitution, and to enjoin the Superior Court from proceeding with the unlawful detainer action against him. Dkt. 1 at 12–3. Kelley has since moved to dismiss the State of California as a defendant, which the Court granted. Dkt. 31; Dkt. 32. On August 22, 2018, Kelley moved for a preliminary injunction to halt the unlawful detainer action (Dkt. 14) and two days later he applied for a temporary restraining order (Dkt. 16). The Court denied the TRO application. Dkt. 24. Chase moved to dismiss the case on September 12, 2018. Dkt. 25.

On November 20, 2018, Chase—having sold the Saratoga property to a third party—

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1 dismissed the unlawful detainer action. Dkt. 38 at 4–5.¹ Chase contends that the matter before
2 this Court is now moot. *Id.* Kelley does not disagree; he requests that the Chase be dismissed as a
3 defendant. Dkt. 44.

4 The Court hereby grants Chase’s Motion to Dismiss (Dkt. 25) without prejudice. Because
5 no other defendants remain, the case is dismissed. Kelley’s motion for a preliminary injunction
6 (Dkt. 14) and the outstanding motions for telephonic appearances (Dkt. 39, 40, 42, 43) are
7 terminated. The clerk shall close the file.

8 **IT IS SO ORDERED.**

9 Dated: February 1, 2019.



EDWARD J. DAVILA
United States District Judge

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27 ¹ The Court takes judicial notice of the Request for Dismissal filed by Chase with the Superior
28 Court. Dkt. 38.